IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3827 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE AKIL KURESHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

RK PATEL SR.POLICE WIRELESS SUB INSPECTOR (E)

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 3827 of 2004

MR NIKHIL S KARIEL for Petitioner No. 1

MR SP HASURKAR, AGP for Respondent No. 1-3

CORAM : HON'BLE MR.JUSTICE AKIL KURESHI

Date of decision: 02/03/2005

ORAL JUDGEMENT

Rule. Learned AGP Mr.Hasurkar waives service of notice of rule on behalf of the respondents. At the joint request of the learned advocates appearing for the parties, the petition is taken up for final disposal today.

2. The grievance of the petitioner herein is that

despite directions from this Court, his case for promotion to the post of Police Sub-Inspector has not been properly considered.

3. Counsel for the petitioner submits that the petitioner and some other persons had approached this Court earlier by filing Special Application No.1717/80 challenging the action of the respondents in not promoting the petitioners to the said post. This Court disposed of the said petition by the judgment dated 30th March 1995 directing the respondent authorities to consider the case of the petitioners for promotion to the post of Sub-Inspector (Wireless) from the date on which the private respondents Nos.4 to 19 were promoted to the said post and to grant seniority from the said date. The pay and allowances were directed to be granted notionally without any arrears. It is the case of the petitioner that despite these directions, the petitioner was not considered for promotion. The petitioner, therefore, once again approached this Court by filing Special Civil Application No.2693 of 1999 and this Court disposed of the same by the order dated 26.4.99 observing that the Court does not find it appropriate to entertain the petition. However, the petitioners were given liberty to file a detailed representation with respect to the grievances and it was directed that the respondents shall decide the same within a period of two months from the date of receipt thereof. It was observed that in case the grievances are to be accepted, the same may be accepted and accordingly all consequential benefits be given to them. However, if the representation is not accepted, then a reasoned order be passed. Liberty was granted to the petitioners to revive the petition in such an eventuality.

4. Counsel for the petitioner submits that pursuant to the said order dated 26.4.99, the petitioner made representation dated 20.8.99 and made number of representations thereafter. The respondents, however, have not replied to any of these representations and the case of the petitioner for being considered for promotion as directed by this Court in earlier round of litigation has remained outstanding. The representations of the petitioner have also remained unanswered.

5. Appearing for the respondents, learned AGP Mr.Hasurkar submitted that in the meantime, learned single Judge of this Court while disposing of Special Civil Application No.2233 of 2002 by the order dated 20th January 2003 made certain observations with respect to some other officers in the same cadre. It is contended

that a provisional seniority list for the post of Police Sub-Inspector (Wireless) was circulated and representations of aggrieved officers were considered and this seniority list was thereafter finalsied. He, therefore, submits that the case of the petitioner now cannot be considered in light of the subsequent developments.

6. From the above discussion, it is clear that this Court by order dated 30th March 1995 had directed the respondents to consider the case of the petitioner for promotion to the post of Police Sub-Inspector (Wireless) from a particular date. Since this was not done, the petitioner filed a fresh petition which came to be disposed by the order dated 26.4.99 directing the respondents to dispose of the representation of the petitioner within two months. It appears that the representations made by the petitioner have not been dispose of till date. Whatever be the subsequent developments, the respondents ought to have followed the direction of the Court and disposed of the representations in accordance with law. The reason for not considering the petitioner for promotion as directed in the first order dated 30th March 1995 is also not clear.

7. In view of the above position, it is clear that the respondents ought to have disposed of the representations made by the petitioner. Since some developments might have taken place after making of such representations, which would be part of the present petition, it is directed that the respondents shall treat the present petition as representation of the petitioner and dispose of the same as expeditiously as possible and in any case not later than two months from the date of receipt of a copy of this order and reply to the petitioner suitably. With these directions, the petition is disposed of. Rule is made absolute accordingly with no order as to costs.

(Akil Kureshi, J.)

(vjn)